

*REMARKS/ARGUMENTS*

In response to the Official Action mailed August 15, 2005, Applicants amend their application and request reconsideration. No claims are canceled and claims 5-7 are added so that claims 1-7 are now pending.

Claims 1-4 are carried forward without substantive change. Grammatical improvements are made in claim 3. New claims 5-7 are clearly supported by the application as filed. New claim 5 results from a combination of examined claims 1 and 4 along with the addition of further description of the invention. The base member mentioned as an environmental element in claim 3 is expressly claimed in new claim 5. Further, dimensional characteristics of the drive sheave are described in new claim 5. These characteristics are clear from at least Figures 3-5 of the patent application.

Examined claim 1 was rejected as anticipated by Kondera et al. (EP 1380530, hereinafter Kondera). It seems apparent from the comments in the Official Action at page 2 that it was actually intended to reject both of claims 1 and 2 as anticipated by Kondera. Claim 3 was rejected as unpatentable over Kondera in view Senn (U.S. Patent 2,701,032). Claim 4 was rejected as obvious over Kondera considered by itself. These rejections are all respectfully traversed.

It is apparent from the recitation of the rejections that Kondera is essential to each of the rejections. However, Kondera is not prior art and therefore all of the rejections are legally defective. The effective date of Kondera is its publication date, January 14, 2004. The present patent application was filed in the United States on November 26, 2003 and claims domestic priority of a U.S. patent application filed March 25, 2003. Thus, the effective date of the present patent application is nearly ten months before the effective date of Kondera. Therefore, Kondera cannot be prior art pursuant to any subsection of 35 U.S.C. 102. Accordingly, none of the rejections can properly be maintained. Applicants recognize that other prior art publications were cited in the Official Action but not applied in rejecting any claims. Therefore, no potential rejection is responded to here.

The present invention is directed to an elevator that lacks a machine room, thereby saving substantial valuable real estate. In place of the machine room, as shown in the

figures, and described in the patent application, the hoisting machine is mounted beside the elevator car. Therefore, there must be supports for the hoisting machine. The elevator system according to claim 5, for example, includes a base member disposed on the bottom of the hoistway, a fixing member extending vertically from that base member and a mount member that supports the hoisting machine. The mount member is fastened to the fixing member. Further, a securing member is located on the fixing member and secured to the wall of the hoistway.

Even if Kondera were prior art, there still is no disclosure in Kondera of a base member supported on the bottom of the hoistway and that supports a fixing member that extends vertically from the base member. Further, as shown in Figure 1 of Kondera, Kondera's hoisting machine is at the top of the hoistway so that the arrangement of claim 5 concerning the base member, fixing member, mount member, and securing member would be unworkable in the Kondera system. By contrast with Kondera, as shown, for example in Figure 3 of the patent application, the hoisting machine is near the bottom of the hoistway. Thus, the base member and associated fixing member, mount member, and securing member can be reasonable in size and are not extended in length, as are particular members of the Kondera apparatus.

Further, although the Examiner relied upon Senn in rejecting claim 3, and Senn mentions a base member, the modification of Kondera with Senn is not reasonable. The structures of the Kondera system and of the Senn elevator are so different that one of skill in the art would never seek to modify Kondera with Senn. Since motivation for modifying Kondera with Senn is lacking, the rejection based upon that combination is erroneous and, upon reconsideration, should be withdrawn.

Since no claim has been amended in response to the Official Action, any new rejection, relying upon different prior art or different legal grounds, can properly be a final rejection. Reconsideration and allowance of claims 1-7 is earnestly solicited.

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